

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NICE SYSTEMS, INC. and  
NICE SYSTEMS LTD.,

*Plaintiffs,*

v.

Civil Action No. 06-311-JJF

WITNESS SYSTEMS, INC.,

*Defendant.*

**WITNESS SYSTEMS, INC.'S NOTICE OF MOTION TO STRIKE PLAINTIFFS'  
SECOND AND THIRD SUPPLEMENTAL OBJECTIONS AND RESPONSES TO  
WITNESS SYSTEMS, INC.'S INTERROGATORY NOS. 17 AND 18 AND TO  
PRECLUDE PLAINTIFFS' USE OF EVIDENCE RELATED THERETO**

PLEASE TAKE NOTICE THAT, in accordance with the procedures set forth in the Court's Standing Order regarding the procedure for filing non-case dispositive motions in patent cases, Defendant Witness Systems, Inc. ("Witness Systems") moves the Court to enter an Order (a) striking Plaintiffs NICE Systems, Inc. and NICE Systems, Ltd.'s (collectively, "NICE") supplemental responses to Witness Systems' interrogatories (served on August 2 and August 10, 2007); (b) precluding NICE from introducing at trial any evidence seeking to establish conception and reduction to practice dates prior to the filing priority dates of each of the patents-in-suit; and (c) granting such other relief the Court deems just, proper, and equitable.

Witness Systems respectfully requests that the Court consider its Motion on October 5, 2007, or as soon thereafter as the Court may permit.

Dated: September 7, 2007

FISH & RICHARDSON P.C.

By: /s/ Kyle Wagner Compton

William J. Marsden, Jr. (#2247)

Kyle Wagner Compton (#4693)

919 N. Market Street, Suite 1100

P. O. Box 1114

Wilmington, Delaware 19899-1114

Telephone: (302) 652-5070

[kcompton@fr.com](mailto:kcompton@fr.com)

Nagendra Setty (*pro hac vice*)

Daniel A. Kent (*pro hac vice*)

1180 Peachtree Street, NE, 21st Floor

Atlanta, GA 30309

Telephone: (404) 892-5005

ATTORNEYS FOR DEFENDANT

WITNESS SYSTEMS, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 7th day of September, 2007, I electronically filed with the Clerk of Court the foregoing **WITNESS SYSTEMS, INC.'S NOTICE OF MOTION TO STRIKE PLAINTIFFS' SECOND AND THIRD SUPPLEMENTAL OBJECTIONS AND RESPONSES TO WITNESS SYSTEMS, INC.'S INTERROGATORY NOS. 17 AND 18 AND TO PRECLUDE PLAINTIFFS' USE OF EVIDENCE RELATED THERETO** using CM/ECF which will send electronic notification of such filing(s) to the below-listed Delaware counsel. In addition, the filing will also be sent via hand delivery.

Josy W. Ingersoll  
Melanie K. Sharp  
Karen E. Keller  
Young, Conaway, Stargatt & Taylor, LLP  
1000 West Street, 17<sup>th</sup> Floor  
P.O. Box 391  
Wilmington, DE 19899

*Attorneys for Plaintiffs  
Nice Systems Ltd. and Nice Systems, Inc.*

I also certify that on September 7, 2007, I have sent by electronic mail and U.S. First Class Mail, the document(s) to the following non-registered participants:

Scott G. Lindvall  
Daniel DiNapoli  
Joseph M. Drayton  
Robert R. Laurenzi  
Jason Frank  
Steven Chin  
Kaye Scholer LLP  
425 Park Avenue  
New York, NY 10022

*Attorneys for Plaintiffs  
Nice Systems Ltd. and Nice Systems, Inc.*

/s/Kyle Wagner Compton  
Kyle Wagner Compton